

State of South Dakota

EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

237L0402

SENATE BILL NO. 152

Introduced by: Senators Duenwald, Greenfield, Hansen (Tom), and Hanson (Gary) and
Representatives Davis, Fryslie, Hackl, Hargens, and Jensen

1 FOR AN ACT ENTITLED, An Act to provide the secretary of agriculture with certain rule-
2 making and enforcement powers to regulate seed.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 38-12A-19 be amended to read as follows:

5 38-12A-19. The secretary may:

- 6 (1) Enter upon any public or private premises during regular business hours in order to
7 have access to seeds and to the records subject to this chapter;
- 8 (2) Inspect, sample, make analysis of, and test seeds to the extent necessary to determine
9 whether the seeds are in compliance with this chapter;
- 10 (3) Inspect the records of seeds to the extent necessary to determine whether the seeds
11 are in compliance with this chapter;
- 12 (4) Establish and maintain a seed laboratory for seed testing or to cooperate with other
13 persons, agencies or institutions in seed testing and reporting of results;
- 14 (5) Employ qualified persons, and to incur such expenses as may be necessary to comply
15 with the provisions of this chapter;



1 (6) Issue and enforce a written or printed "stop sale" order to the owner or custodian of
2 any lot of seed which is in violation of any of the provisions of this chapter. The
3 order shall prohibit further sale, conditioning, and movement of the seed, except on
4 approval of the agent issuing the stop sale or the secretary, until the secretary has
5 evidence that the law has been complied with and has issued a "Release From Stop
6 Sale" order for the seed;

7 (7) Request from a court of competent jurisdiction and carry out a seizure on any lot of
8 seed for which a stop sale order has been issued and the person having responsibility
9 has failed to abide by the stop sale order. The court shall order disposition of the seed
10 after any criminal or civil proceedings are terminated;

11 (8) Cooperate with the United States Department of Agriculture, regulatory agencies of
12 other states, and other agencies of this state in seed law enforcement;

13 (9) Enjoin the enforcement of any ordinance, regulation, or action of any political
14 subdivision of this state which is in conflict with any provision of this chapter or any
15 rule promulgated pursuant to § 38-12A-20.

16 Section 2. That § 38-12A-20 be amended to read as follows:

17 38-12A-20. The secretary may promulgate rules, pursuant to the provisions of chapter 1-26,
18 which are consistent with the following:

19 (1) To provide application forms for seed permits;

20 (2) To provide for procedures for contested cases;

21 (3) To designate which weed seeds are prohibited or restricted;

22 (4) To establish standards for sampling, inspecting, analyzing, and testing seeds;

23 (5) To establish the tolerances to be used;

24 (6) To establish which kinds of seed have to be labeled as to variety, variety not stated,

- 1 type or performance characteristics;
- 2 (7) To establish standards for allowable weed seed or restricted noxious weed seed;
- 3 (8) To establish the length of time for which a germination test shall be acceptable;
- 4 (9) To establish standards for percentage of germination and inert matter;
- 5 (10) To establish which seeds a farmer can produce and sell without a label;
- 6 (11) To establish which seeds are subject to specific labeling and germination
- 7 requirements;
- 8 (12) To establish standards for enforcement of plant variety protection;
- 9 (13) To provide procedures for releasing seed from stop sales;
- 10 (14) To establish standards for imposing civil penalties;
- 11 (15) To establish standards for labels;
- 12 (16) To establish standards for size of file samples;
- 13 (17) To establish procedures and standards for the arbitration committee and the
- 14 arbitration process;
- 15 (18) To establish standards for the sale, storage, and transportation of seeds.